

**INTERGOVERNMENTAL AGREEMENT**

BETWEEN  
THE STATE OF ARIZONA  
AND  
CITY OF ELOY

THIS AGREEMENT is entered into 19 October, 2000, pursuant to Arizona Revised Statutes, Sections 11-951 through 11-954, as amended, between the STATE OF ARIZONA, acting by and through its DEPARTMENT OF TRANSPORTATION (the "State") and the CITY OF ELOY acting by and through its MAYOR and CITY COUNCIL (the "City").

**1. RECITALS**

1. The State is empowered by Arizona Revised Statutes Section 28-6993(g) to enter into this agreement and has by resolution, a copy of which is attached hereto and made a part hereof, resolved to enter into this agreement and has delegated to the undersigned the authority to execute this agreement on behalf of the State.
2. The City is empowered by Arizona Revised Statutes Section 48-572 to enter into this agreement and has by resolution, a copy of which is attached hereto and made a part hereof, resolved to enter into this agreement and has authorized the undersigned to execute this agreement on behalf of the City.
3. The State has approved the exchange of \$67,500.00 in Highway User Revenue Funds (HURF) to the City for design of improvements to Battaglia Road, and such funds will be repaid to the State by withholding from the Central Arizona Association of Governments (CAAAG) federal funds and the obligation authority for federal funds in the amount of \$75,000.00, during fiscal year 2000.
4. The State has approved the exchange of \$382,500.00 in Highway User Revenue Funds (HURF) to the City for the construction of improvements to Battaglia Road and such funds will be repaid to the State by withholding from the Central Arizona Association of Governments federal funds and the obligation authority for federal funds in the amount of \$425,000.00 during fiscal year 2001.

THEREFORE, in consideration of the mutual agreements expressed herein, it is agreed as follows

NO. 24278  
Filed with the Secretary of State  
Date Filed: 10/19/00  
Anthony S. Gualena  
Secretary of State  
B. Vicky D. Lawrence

## II. SCOPE OF WORK

1. The City will:
  - a. Provide design of the improvements contemplated for Battaglia Road. Provide the State suitable documentation of design together with invoices.
  - b. Be responsible for any additional funds required for design of the project, and for any claims for extra compensation for whatever reason. Comply with all applicable State laws, rules and regulations.
  - c. Invoice the State in an amount not to exceed \$67,500.00 for reimbursement for the costs of design.
  - d. Call for bids and award one or more construction contracts for the project. Administer same and make all payments to the contractor(s). Be responsible for any additional funds required to complete the project, and for any contractor claims for extra compensation due to delays or whatever reason.
  - e. Invoice the State for thirty percent of the project construction cost, at the start of construction.
  - f. Invoice the State for thirty percent of the project cost, at the thirty percent project completion state, and for thirty percent of the project cost at the sixty percent project completion state.
  - g. Upon completion, approve and accept the project as complete and provide maintenance.
  - h. Invoice the State for the remaining ten percent of the project cost at the one hundred percent project completion stage.
2. The State will:
  - a. Within 30 days after receipt and approval of a design invoice, advance the City HURF funds in the amount of \$67,500.00 for design.
  - b. Within 30 days after receipt and approval of construction invoices, advance the City HURF funds in the total amount of \$382,500.00 for construction.
  - c. Withhold from CAAG, federal funds and the obligation authority of federal funds in the amount of \$75,000.00 for design in federal fiscal year 2000.
  - d. Withhold from CAAG, federal funds and the obligation authority of federal funds in the amount of \$425,000.00 for construction during federal fiscal year 2001.

## III. MISCELLANEOUS PROVISIONS

1. The State assumes no liability under this agreement. The City assumes full responsibility for the acquisition of right of way, right-of-way plans, project design, plans and specifications, reports, construction and the engineering in connection therewith, cost over-runs and claims. It is agreed that the State's participation is confined solely to advancing highway user revenue funds, that any damages arising from carrying out, in any respect, the terms of this agreement or any modification thereof, shall be solely the liability of the City and that the City hereby agrees to save and hold harmless and indemnify from loss the State, any of its departments, agencies, officers or employees from any and all cost and/or damage incurred by any of the above and from any other damage to any person or property whatsoever,

which is caused by any activity, condition, or event arising out of the performance or nonperformance of any provisions of this agreement by the State, any of its departments, agencies, officers and employees, the City, any of its agents, officers and employees, or any of its independent contractors. Costs incurred by the State, any of its departments, agencies, officers or employees shall include in the event of a action, and court costs, expenses of litigation or attorneys' fees.

2. This agreement shall remain in force and effect until completion of said project, provided, however, that this agreement, except any provisions herein for maintenance, which shall be perpetual, unless assumed by another governmental entity, may be canceled at any time prior to the award of a construction contract, upon thirty (30) days written notice to the other party.

3. This agreement shall become effective upon filing with the Secretary of State.

4. This agreement may be canceled in accordance with Arizona Revised Statutes Section 38-511.

5. The provisions of Arizona Revised Statutes Section 35-214 are applicable to this contract.

6. In the event of any controversy which may arise out of this agreement, the parties hereto agree to abide by required arbitration as is set forth for public works contracts in Arizona Revised Statutes Section 12-1518.

7. All notices or demands upon any party to this agreement shall be in writing and shall be delivered in person or sent by mail addressed as follows:

Arizona Department of Transportation  
Joint Project Administration  
205 South 17 Avenue, Mail Drop 616E  
Phoenix, AZ 85007


City of Eloy  
City Engineer  
626 N. Main Street  
Eloy, AZ 85231

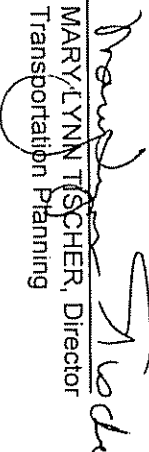
8. Attached hereto and incorporated herein is the written determination of each party's legal counsel that the parties are authorized under the laws of this state to enter into this agreement and that the agreement is in proper form.

IN WITNESS WHEREOF, the parties have executed this agreement the day and year first above written.

**CITY OF ELOY, ARIZONA**

**STATE OF ARIZONA**  
Department of Transportation

By   
BEN CRUZ  
Mayor

By   
MARY LYNN TISCHER, Director  
Transportation Planning

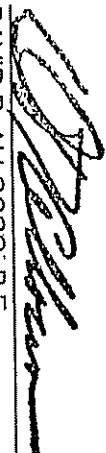
ATTEST

By   
MARY RIDGELL  
City Clerk

RESOLUTION

BE IT RESOLVED on this 8th day of May 2000, that I, the undersigned MARY E. PETERS, as Director of the Arizona Department of Transportation, have determined that it is in the best interests of the State of Arizona that the Department of Transportation, acting by and through the Intermodal Transportation Division, to enter into an agreement with the City of Eloy for the purpose of defining responsibilities for the exchange in Highway User Revenue Funds (HURF) to the City for design and construction of improvements to Battaglia Road, and will be repaid to the State by withholding from the Central Arizona Association of Governments federal funds and the obligation authority for federal funds during fiscal year 2000 for design and 2001 for construction.

Therefore, authorization is hereby granted to draft said agreement which, upon completion, shall be submitted to the Transportation Planning Director for approval and execution.

A handwritten signature in black ink, appearing to read "D. Allocco", is written over a horizontal line.

DAVID R. ALLOCCO, P.E.  
Assistant State Engineer  
Engineering Technical Group

for MARY E. PETERS, Director


RESOLUTION NO. 00-848

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ELOY, ARIZONA, APPROVING THE INTERGOVERNMENTAL AGREEMENT BETWEEN THE CITY OF ELOY AND THE ARIZONA DEPARTMENT OF TRANSPORTATION (ADOT) FOR FUNDING THE DESIGN AND CONSTRUCTION FOR IMPROVEMENTS ON BATTAGLIA ROAD THROUGH THE HIGHWAY USER REVENUE FUNDS (HURF) EXCHANGE PROGRAM FOR FISCAL YEARS 2000-2001 AND 2001-2002

BE IT RESOLVED by the City Council of the City of Eloy, Arizona, that the City Council:

1. Approve the Intergovernmental Agreement with ADOT for HURF Funds Exchange for Funding of Design and Construction of Improvements on Battaglia Road for a total of \$450,000.
2. Authorize the Mayor to sign the agreement on the City's behalf.
3. Direct City staff to prepare and issue a request for proposal for Civil Engineering Design Services.

PASSED AND ADOPTED by the City Council of the City of Eloy, Arizona, this 28<sup>th</sup> day of August, 2000.

  
\_\_\_\_\_  
Mayor

ATTEST:

APPROVED AS TO FORM:

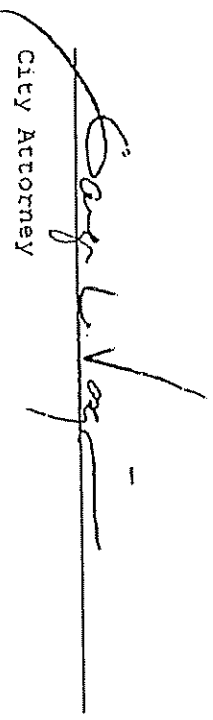
  
\_\_\_\_\_  
City Clerk

  
\_\_\_\_\_  
City Attorney

APPROVAL OF THE ELOY CITY ATTORNEY

I have reviewed the above referenced proposed intergovernmental agreement, between the DEPARTMENT OF TRANSPORTATION, HIGHWAYS DIVISION, and the CITY OF ELOY and declare this agreement to be in proper form and within the powers and authority granted to the City under the laws of the State of Arizona.

DATED this 11<sup>th</sup> day of September, 2000.

  
City Attorney



STATE OF ARIZONA

OFFICE OF THE ATTORNEY GENERAL

1275 WEST WASHINGTON, PHOENIX, AZ. 85007-2926

JANET NAPOLITANO  
ATTORNEY GENERAL

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INTERGOVERNMENTAL AGREEMENT  
DETERMINATION

A.G. Contract No. KR00-0695TRN, an agreement between public agencies, has been reviewed pursuant to A.R.S. § 11-952, as amended, by the undersigned Assistant Attorney General who has determined that it is in the proper form and is within the powers and authority granted to the State of Arizona.

No opinion is expressed as to the authority of the remaining parties, other than the State or its agencies, to enter into said agreement.

DATED October 16, 2000.

JANET NAPOLITANO  
Attorney General

  
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SUSAN E. DAVIS  
Assistant Attorney General  
Transportation Section

SED:ggf

Enc.

651340